REMARKS

The present application represents a divisional application. The parent application received an initial restriction between the claimed apparatus for creating a substantial uniform temperature across a plastic sheet for delivery to an appliance liner thermoforming device and the corresponding method. The apparatus was elected for prosecution in the parent application which resulted in U.S. Patent No. 6,443,721. The present application is therefore directed to method claims 16-26. At present, all the claims stand rejected under 35 U.S.C. § 103 based on the teachings in Streltsov (U.S. Patent No. 3,728,799) in view of Plante (U.S. Patent No. 4,842,742). In general, it is submitted that the present application should be in clear condition for allowance for at least the reasons:

A. Basis for Restriction Requirement in Parent Application

The parent application was restricted between product and method because "the process as claimed can be practiced by another materially different apparatus...such that the apparatus does not require a conveying mechanism." Therefore, the basis for the restriction was that the method claims contained at least one restriction not found in the apparatus claims. In other words, the method claims are more restrictive. With this in mind, it is submitted to be totally contradictory to reject the more limiting method claims over prior art which the broader apparatus claims were allowable.

B. The Present Patent Office Position Contradicts that Taken in the Parent Case

In one sense, the Applicant feels that the arguments for allowability of the present case mirror those in the parent application. To this end, the Patent Office has already made a clear line of patentability and, if for no other reasons than consistency

maintaining compact prosecution, it is believed that the present application should have been readily allowed in a First Action issue. In any case, to reinforce this position, an interview was conducted in the parent application with the same prior art of record and it was agreed that "none of the prior art of record disclose a thermoforming apparatus for thermoforming an appliance liner, in which the sheet material is uniformly heated by a temperature controlled fluid medium." It is respectfully the positions taken in the present case are directly contrary to the prior Patent Office decision. In general, it has already been decided that this prior art does not meet the claimed subject matter. Regardless, specific differences being re-iterated below.

C. Invention Not Disclosed or Suggested by Prior Art

The '799 patent to Streltsov teaches to take a small blank 4, suspend it on a cushion of air for delivery into an oven, non-uniformly heat the blank in the oven, and then transfer the heated blank to a force molding machine. As the claims in the present application are particularly directed to forming an appliance liner, the Examiner has modified this main prior art arrangement in view of the Plante patent which is concerned with thermoforming a refrigerator liner. Even assuming that this combination would be obvious to one of ordinary skill in the art (which the Applicant does not agree with), it is considered that the Examiner has not established a prima facie case of obviousness and overlooked various distinctions.

For instance, the Plante patent specifically desires to form refrigerator liners by controlling the heating of different portions of a billet in order to establish different thicknesses in different portions of the liner. Therefore, if one of ordinary skill in the art was to make the liner of Plante even using the apparatus of Streltsov, the liners would

presumably be made with non-uniform heating of the billets which is directly contrary to the present invention. The Examiner has apparently recognized that the combination would need to result in such an arrangement by providing the obviousness statement "in order to efficiently form liners without thin spots or whitening." However, one must realize that the combination as presented would not then meet the limitations concerning the uniform heating.

In addition, the Examiner appears to be impermissibly picking and choosing certain features from the prior art to utilize in the combination instead of utilizing the references for what they actually teach. In general, it appears to be the position of the Examiner that, simply because there exists prior art to thermoform refrigerator liners (Plante) that it would be obvious to utilize the device of Streltsov to make appliance liners. If one of ordinary skill in the art were to make appliance liners, why no utilize the arrangement of Plante by itself? Streltsov is clearly not designed to make appliance liners. Why pick and choose select features of Plante in the combination other than in an attempt to meet the claimed limitations? Again, the Applicant has been down this road before with the USPTO and it has already been agreed that the known prior does not disclose or suggest these combined features of the invention.

An additional, major problem with the positions taken by the Examiner concerns the fact that the independent claim in this application requires a temperature controlled fluid medium to be directed upon opposing side surfaces of the sheet of plastic material. Although addressed with the Examiner in connection with the prosecution of the parent application, it should be noted that the heated air is only applied to levitate the blank in Streltsov such that the air only heats the bottom of the blank. The blank is then shifted to an oven wherein thermal radiant energy is utilized to heat the overall blank on both sides.

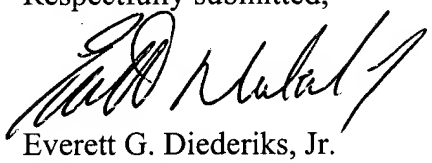
Therefore, there is never a fluid medium directed upon opposing side surfaces of the sheet in connection with the Streltsov arrangement. The Examiner indicates on page 2 of the Office Action that this prior art patent does teach a temperature controlled fluid medium being directed upon opposing side surfaces of the sheet, while page 3 of the Office Action, starting on line 6, outlines that Streltsov does not teach "delivering the fluid medium through a manifold assembly onto the opposing side surfaces of the sheet..." Therefore, the Examiner has set forth two contradicting statements in this regard. In any case, none of the prior art heats a billet which is sent to an appliance liner thermoforming device in a manner analogous to the present invention. Again, a statement to this effect has already been made in the interview summary prepared in the parent application.

Finally, you will note that lines 6-18 on page 3 of the Office Action lists numerous features that are claimed and not taught by the applied prior art. The Examiner then goes on to outline on three pages why each one of these features would be obvious without any teaching in the applied prior art. The Examiner appears to take various official notices of known prior art arrangements, holds various features to be design choices, and the like. It is respectfully submitted that, if certain features are so well known in the art so that the Examiner can simply take Official Notice, then prior art could be readily developed and used in a proper obviousness-type rejection for the same purpose. Instead, it appears that the Examiner is simply using hindsight and reconstructing the present invention without any specific teaching in the prior art.

In any event, it is respectfully submitted that the present invention should be considered readily patentable over the applied prior art such that allowance of the claims and passage of the application to issue are respectfully requested. If the Examiner should have any additional concern regarding the allowance of the application, he is cordially

invited to contact the undersigned at the number provided below to further expedite the prosecution.

Respectfully submitted,



Everett G. Diederiks, Jr.
Attorney for Applicant
Registration No. 33,323

Date: November 12, 2004
DIEDERIKS & WHITELAW, PLC
12471 Dillingham Square, #301
Woodbridge, VA 22192
Tel: (703) 583-8300
Fax: (703) 583-8301